

1
2
3
4

5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA

7
8 ENTERPRISE BANK & TRUST,
9 Plaintiff and Judgment Creditor,
10 v.
11 RICHARD L. WINDERS,
12 Defendant and Judgment Debtor.

No. C-14-80223 MISC EMC

**ORDER GRANTING PLAINTIFF'S
MOTION FOR AN ORDER CHARGING
THE LIMITED PARTNERSHIP
INTEREST IN BERENDA FARMS, L.P.
AND/OR BERENDA PISTACHIO
FARMS, L.P. OWNED BY JUDGMENT
DEBTOR RICHARD L. WINDERS**

(Docket Nos. 7, 10)

13
14
15
16 On October 9, 2014, at 1:30 p.m., in Courtroom 5 of the United States District Court for the
17 Northern District of California, San Francisco Division, located at 450 Golden Gate Avenue, San
18 Francisco, California 94102, the motion ("Motion") of Plaintiff and Judgment Creditor Enterprise
19 Bank & Trust ("Enterprise Bank"), seeking an order charging the partnership interest of defendant
20 and judgment debtor Richard L. Winders ("Winders") in Berenda Farms, L.P. ("Berenda Farms")
21 and/or Berenda Pistachio Farms, L.P. ("Berenda Pistachio Farms"), came on for a regularly noticed
22 hearing, with United States District Judge Edward M. Chen presiding. Kaveh Badiei appeared on
23 behalf of Enterprise Bank.

24 Enterprise Bank made its Motion under sections 708.310 and 708.320 of the California Code
25 of Civil Procedure, section 15907.03 of the California Corporations Code, and all applicable law.
26 "A charging order constitutes a lien on the judgment debtor's transferable interest in the
27 partnership." Cal. Corp. C. § 16504 (b). In other words, a charging order gives the judgment
28 creditor a right to receive partnership distributions to which the judgment debtor would otherwise be

United States District Court
For the Northern District of California

1 entitled. *See* Cal. Corp. Code § 15907.02(b). Enterprise Bank made its Motion on the grounds that
2 a money judgment in the amount of not less than \$2,047,213.51¹ (the “Judgment”) has been entered
3 against Winders and in favor of Enterprise Bank in the United States District Court for the District
4 of Kansas, Case No. 2:13-cv-02549-RDR-KGS, and has been registered in the above-captioned case
5 in the United States District Court for the Northern District of California, Case No. 3:14-mc-80223-
6 EMC; enforcement of the Judgment is not stayed or subject to appeal; the Judgment remains
7 unsatisfied; and Winders appears to own partnership interests in Berenda Farms and/or Berenda
8 Pistachio Farms against which Enterprise Bank may properly enforce the Judgment.²

9 The Court having considered Enterprise Bank’s moving papers and the arguments of counsel
10 appearing at the hearing; no opposition having been filed by Winders, Berenda Farms, or Berenda
11 Pistachio Farms; notice and service of Enterprise Bank’s motion being proper; the relief requested
12 by Enterprise Bank being proper under Rule 69(a) of the Federal Rules of Civil Procedure, sections
13 708.310 and 708.320 of the California Code of Civil Procedure, and section 15907.03 of the
14 California Corporations Code; and good cause appearing therefor:

15 IT IS HEREBY ORDERED THAT:

16 (1) Enterprise Bank’s Motion is **GRANTED**; and
17 (2) Winders’s transferable partnership interest, if any, in Berenda Farms and Berenda
18 Pistachio Farms hereby is charged with the unpaid amount of Enterprise Bank’s Judgment against
19 Winders in the sum of \$2,047,213.51 plus post-judgment interest at the rate of 8.00% (in the amount
20 _____)

21 ¹ Judgment was entered in favor of Enterprise Bank and against Winders in the amount of
22 \$2,029,431.13, plus additional pre-judgment interest at the rate of 8.00% in the amount of \$423.39
23 per diem from April 29, 2014 through the date of entry of Judgment (June 9, 2014) for an additional
24 \$17,782.38. In addition, post-judgment interest has accrued on the unpaid Judgment at the rate of
8.00% in the amount of \$448.70 per diem from June 9, 2014 to the present date, and post-judgment
interest will continue to accrue at the rate of 8.00% in the amount of \$448.70 per diem along with
attorneys’ fees until the Judgment is paid in full.

25 ² The Court hereby grants Enterprise Bank’s request for judicial notice of the Stipulated
26 Judgment and Clerk’s Certification. *See* Docket No. 10, Exs. 1, 2. The Stipulated Judgment and
27 Clerk’s Certification are noticeable as proceedings in a federal court that directly relate to the
matters at issue. *See U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d
244, 248 (9th Cir. 1992) (noticing state court judgment). More generally, the specific documents
requested to be noticed are court records, the authenticity of which “can be accurately and readily
determined from sources whose cannot reasonably be questioned.” Fed. R. Evid. 201(b).
Furthermore, the request for judicial notice is unopposed.

1 of \$448.70 per diem) from June 9, 2014 until such time as the amount remaining due on Enterprise
2 Bank's Judgment, including all accrued interest and attorneys' fees as provided for in the Judgment,
3 through the date of payment, is paid in full.

4 (3) Berenda Farms and Berenda Pistachio Farms shall pay and turn over directly to
5 Enterprise Bank any and all payments, dividends, income, money, and property due or to become
6 due to Winders until such time as the amount remaining due on Enterprise Bank's Judgment,
7 including all accrued interest and attorneys' fees as provided for in the Judgment, through the date of
8 payment, is paid in full.

9 Plaintiff shall serve this Order on all affected parties and shall file a proof of service with the
10 Court within seven (7) days of the date of this order.

11 This order disposes of Docket Nos. 7 and 10.

12
13 IT IS SO ORDERED.
14

15 Dated: October 15, 2014
16
17
18
19
20
21
22
23
24
25
26
27
28



EDWARD M. CHEN
United States District Judge